

## **58-67-102 Definitions.**

In addition to the definitions in Section 58-1-102, as used in this chapter:

- (1) "Ablative procedure" means a procedure that is expected to excise, vaporize, disintegrate, or remove living tissue, including the use of carbon dioxide lasers and erbium: YAG lasers, and excluding hair removal.
- (2) "ACGME" means the Accreditation Council for Graduate Medical Education of the American Medical Association.
- (3) "Administrative penalty" means a monetary fine or citation imposed by the division for acts or omissions determined to constitute unprofessional or unlawful conduct, in accordance with a fine schedule established by the division in collaboration with the board, as a result of an adjudicative proceeding conducted in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
- (4) "Board" means the Physicians Licensing Board created in Section 58-67-201.
- (5)
  - (a) "Cosmetic medical device" means tissue altering energy based devices that have the potential for altering living tissue and that are used to perform ablative or nonablative procedures, such as American National Standards Institute (ANSI) designated Class IIIb and Class IV lasers, intense pulsed light, radio frequency devices, and lipolytic devices, and excludes ANSI designated Class IIIa and lower powered devices.
  - (b) Notwithstanding Subsection (5)(a), if an ANSI designated Class IIIa and lower powered device is being used to perform an ablative procedure, the device is included in the definition of cosmetic medical device under Subsection (5)(a).
- (6) "Cosmetic medical procedure":
  - (a) includes the use of cosmetic medical devices to perform ablative or nonablative procedures; and
  - (b) does not include a treatment of the ocular globe such as refractive surgery.
- (7) "Diagnose" means:
  - (a) to examine in any manner another person, parts of a person's body, substances, fluids, or materials excreted, taken, or removed from a person's body, or produced by a person's body, to determine the source, nature, kind, or extent of a disease or other physical or mental condition;
  - (b) to attempt to conduct an examination or determination described under Subsection (7)(a);
  - (c) to hold oneself out as making or to represent that one is making an examination or determination as described in Subsection (7)(a); or
  - (d) to make an examination or determination as described in Subsection (7)(a) upon or from information supplied directly or indirectly by another person, whether or not in the presence of the person making or attempting the diagnosis or examination.
- (8) "LCME" means the Liaison Committee on Medical Education of the American Medical Association.
- (9) "Medical assistant" means an unlicensed individual working under the indirect supervision of a licensed physician and surgeon and engaged in specific tasks assigned by the licensed physician and surgeon in accordance with the standards and ethics of the profession.
- (10)
  - (a)
    - (i) "Nonablative procedure" means a procedure that is expected or intended to alter living tissue, but is not intended or expected to excise, vaporize, disintegrate, or remove living tissue.
    - (ii) Notwithstanding Subsection (10)(a)(i), nonablative procedure includes hair removal.

- (b) "Nonablative procedure" does not include:
  - (i) a superficial procedure as defined in Section 58-1-102;
  - (ii) the application of permanent make-up; or
  - (iii) the use of photo therapy and lasers for neuromusculoskeletal treatments that are performed by an individual licensed under this title who is acting within the individual's scope of practice.
- (11) "Physician" means both physicians and surgeons licensed under Section 58-67-301, Utah Medical Practice Act, and osteopathic physicians and surgeons licensed under Section 58-68-301, Utah Osteopathic Medical Practice Act.
- (12)
  - (a) "Practice of medicine" means:
    - (i) to diagnose, treat, correct, administer anesthesia, or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, including to perform cosmetic medical procedures, or to attempt to do so, by any means or instrumentality, and by an individual in Utah or outside the state upon or for any human within the state;
    - (ii) when a person not licensed as a physician directs a licensee under this chapter to withhold or alter the health care services that the licensee has ordered;
    - (iii) to maintain an office or place of business for the purpose of doing any of the acts described in Subsection (12)(a) whether or not for compensation; or
    - (iv) to use, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human diseases or conditions in any printed material, stationery, letterhead, envelopes, signs, or advertisements, the designation "doctor," "doctor of medicine," "physician," "surgeon," "physician and surgeon," "Dr.," "M.D.," or any combination of these designations in any manner which might cause a reasonable person to believe the individual using the designation is a licensed physician and surgeon, and if the party using the designation is not a licensed physician and surgeon, the designation must additionally contain the description of the branch of the healing arts for which the person has a license, provided that an individual who has received an earned degree of doctor of medicine degree but is not a licensed physician and surgeon in Utah may use the designation "M.D." if it is followed by "Not Licensed" or "Not Licensed in Utah" in the same size and style of lettering.
  - (b) The practice of medicine does not include:
    - (i) except for an ablative medical procedure as provided in Subsection (12)(b)(ii), the conduct described in Subsection (12)(a)(i) that is performed in accordance with a license issued under another chapter of this title;
    - (ii) an ablative cosmetic medical procedure if the scope of practice for the person performing the ablative cosmetic medical procedure includes the authority to operate or perform a surgical procedure; or
    - (iii) conduct under Subsection 58-67-501(2).
- (13) "Prescription device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, and any component part or accessory, which is required under federal or state law to be prescribed by a practitioner and dispensed by or through a person or entity licensed under this chapter or exempt from licensure under this chapter.
- (14) "Prescription drug" means a drug that is required by federal or state law or rule to be dispensed only by prescription or is restricted to administration only by practitioners.
- (15) "SPEX" means the Special Purpose Examination of the Federation of State Medical Boards.
- (16) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-67-501.

(17) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-67-502, and as may be further defined by division rule.

Amended by Chapter 262, 2013 General Session